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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,305	03/12/2004	Louis Dandurand	Dandurand 2	8122
7590	08/25/2006		EXAMINER BOTTORFF, CHRISTOPHER	
David M. Driscoll 1201 Canton Avenue Milton, MA 02186			ART UNIT 3618	PAPER NUMBER
DATE MAILED: 08/25/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,305	<b>Applicant(s)</b> DANDURAND, LOUIS	
	<b>Examiner</b> Christopher Bottorff	<b>Art Unit</b> 3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16, 18-30, 32-39 and 41-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16, 18-30, 32-39 and 41-50 is/are allowed.
- 6) ☒ Claim(s) 51, 53 and 57-59 is/are rejected.
- 7) ☒ Claim(s) 52, 54-56, 60 and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

The amendment filed June 7, 2006 has been entered. Claims 17, 31, and 40 are canceled. Claims 51-61 are added. Claims 1-16, 18-30, 32-39, and 41-61 are pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 51, 53, and 57-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Parris et al. US 6,105,994.

Parris et al. disclose a step-in binding for receiving a ski boot, comprising a base 20, 23, 30 and a carriage 22, 24, 26. See Figures 1-4. The base 20, 23, 30 is constructed and arranged to be secured to a ski. See column 3, lines 7-9. The carriage 22, 24, 26 is pivotally mounted from a front side of said base and the carriage contains a pair of boot support members on portion 24a of lever 24 that are respectively disposed at opposed sides of the base, and a cross bar attached to the rear end of lever 22. See Figures 1-3 and 7-9. The pair of boot support members extended rearward forming a platform on which the boot sole rests. See Figures 3 and 4. The cross bar engages with a top surface of the boot sole and pivots in unison with the laterally disposed boot support members. See Figure 4 and column 3, lines 14-20. The carriage 22, 24, 26 is biased to a boot released position and further has a locked position that is assumed once the boot is received, engages the carriage 22, 24, 26 and

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is cantilevered downwardly into the locked position forcing the boot against a top surface of the base. See column 2, lines 1-8, and column 3, lines 12-20.

The cross bar has an engagement surface, and the engagement surface there and the top surface of the base are at a greater distance apart when the carriage is in its released position, allowing clearance for the boot sole as it is inserted into the binding. See column 3, lines 21-29. The carriage 22, 24, 26 is cantilevered downward into a locked position, reducing the clearance between the engagement surface of the cross bar and the top surface of the base, firmly engaging the boot. See column 3, lines 21-29.

A first member 33 is supported by the base for engaging or interlocking with the bottom of the boot. See Figure 5 and column 4, lines 18-22. A second member, formed by the lower surface of the cross bar, is supported by the carriage for engaging with the top of the boot. See Figure 4. The first member 33 is supported by the base and is vertically disposed above the front top surface of the base at plate 23. See Figure 3. The first 33 member interlocks with the duckbill of the boot sole when the carriage is cantilevered in a downward or locked position. See Figure 4.

### ***Allowable Subject Matter***

Claims 1-16, 18-30, 32-39, and 41-50 are allowed. The prior art does not teach the first and second members defined in claim 1, in combination with the further limitations of the claim. The prior art also does not teach the dimensional distance defined in combination with the limitations of claim 14, the extension of the support

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members in a range of 2.0 to 4.5 as defined in combination with the limitations of claim 18, the brake legs that engage respective boot support members as defined in combination with the limitations of claim 21, the elevated front top surface of the base as defined in combination with the limitations of claim 34, the platform formed by the flared support members as defined in combination with the limitations of claim 36, and the support members that form a platform as defined in combination with the limitations of claim 48.

Claims 52, 54-56, 60, and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach the extension of the support members in a range of 2.0 to 4.5 as defined claim 52, the elevated top surface of the base as defined in claim 54, the engagement means that interlocks with the top surface of the duckbill of the boot as defined in claim 55, the brake legs that engage respective boot support members as defined in claim 56, and the second member vertically disposed below the cross bar that interlocks with the duckbill of the boot as defined in claim 60. These features, in combination with the further limitations of the claims, distinguish the claimed invention over the prior art.

### ***Response to Arguments***

Applicant's arguments filed June 7, 2006 have been fully considered but they are not persuasive. Claim 51 is not allowable, as Applicant asserts. Claim 48 was indicated as having allowable subject matter based on the combination of elements

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presented therein. Although claim 51 includes some of the limitations of claim 48, important limitations have been omitted. Consequently, claim 51 fails to distinguish over the prior art as discussed in the rejection above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher Bottorff